

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. REA-2007-12
SHANE J. BLACK,)	
License No. CRA-1077,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
_____)	

REA\Black\VP7057lka

WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Shane J. Black (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Shane J. Black is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. CRA-1077 to practice real estate appraising in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. Appraisals in the State of Idaho must comply with the minimum standards set forth in the Uniform Standards of Professional Appraisal Practices ("USPAP").

COUNT ONE

Investigation No. REA-L3-03-2004-08

4. On or about August 14, 2003, Respondent prepared an appraisal report for

the property located at 1276 New Villager Condo in Sun Valley, Idaho ("Subject Property #1"). On or about August 21, 2003, Respondent prepared an appraisal report for the property located at 1331 New Villager Condo in Sun Valley, Idaho ("Subject Property #2").

5. Respondent's report and work file for Subject Properties #1 and #2 fail to meet the following requirements of applicable USPAP Standards¹:

a. Ethics Provision, Recordkeeping: The work files for both appraisals do not contain sufficient information to support the findings and conclusions, no indication is made as to the verification of data and sources of the verification, sales comparison approach data is incomplete, and the work files did not contain any analysis to support the adjustment amounts in the sales comparison approach.

b. Standard 1-2(f): Respondent did not identify the scope of work in either appraisal.

c. Standards 1-4(a) and (b): The lack of a defined scope of work precludes a determination of the adequacy of the collection, verification and analysis of the data.

d. Standards 2-1(a) and (b): The sales comparison adjustment grids do not support or defend the adjustment process or the adjustment amounts, creating reports that are misleading and not credible. In comparing the two reports, Respondent made arbitrary adjustment amounts in an inconsistent manner.

e. Evaluation Summary: Respondent did not verify the sales data for either report.

COUNT TWO
Investigation No. REA-L3-03-2004-15

6. On or about June 14, 2003, Respondent prepared an appraisal report for the

¹ See IDAPA 24.18.01.004 (2003) (adopting the 2002 edition of USPAP, effective 5/03/03); *see also* USPAP (2003). The Standards were comparable in the 2002 and 2003 USPAP editions.

property located at 150 Barlow Road in Blaine County, Idaho (“Subject Property #3”).

7. Respondent’s work file and report for Subject Property #3 fails to meet the following requirements of applicable USPAP Standards²:

a. Ethics Provision, Recordkeeping: The work file does not contain sufficient information to support the findings and conclusions, no indication is made as to the verification of data and sources of the verification, sales comparison approach data is incomplete, and the work file did not contain any analysis to support the adjustment amounts in the sales comparison approach.

b. Standard 1-2(f): Respondent did not identify the scope of work.

c. Standards 1-4(a) and (b): The lack of a defined scope of work precludes a determination of the adequacy of the collection, verification and analysis of the data.

d. Evaluation Summary: Respondent did not verify the sales data.

COUNT THREE
Investigation No. REA-L3-03-2004-13

8. On or about April 27, 2004, Respondent prepared an appraisal report for the property located at 104 Parker Gulch in Sun Valley, Idaho (“Subject Property #4”).

9. Respondent’s work file and report for Subject Property #4 fails to meet the following requirements of applicable USPAP Standards³:

a. Ethics Provision, Recordkeeping: The work file does not contain sufficient information to support the findings and conclusions, no indication is made as to the verification of data and sources of the verification, sales comparison approach data is incomplete, and the work file did not contain any analysis to support the adjustment amounts in the sales comparison approach.

² See IDAPA 24.18.01.004 (2003) (adopting the 2002 edition of USPAP, effective 5/03/03); *see also* USPAP (2003). The Standards were comparable in the 2002 and 2003 USPAP editions.

³ See IDAPA 24.18.01.004 (2004) (adopting the 2003 edition of USPAP, effective 3/20/04); *see also* USPAP (2004). The Standards were comparable in the 2003 and 2004 USPAP editions.

- b. Standard 1-2(f): Respondent did not identify the scope of work.
- c. Standards 1-4(a) and (b): The lack of a defined scope of work precludes a determination of the adequacy of the collection, verification and analysis of the data.
- d. Evaluation Summary: A sales comparison approach is not properly developed.

COUNT FOUR
Investigation No. REA-L3-03-2006-06

10. On or about August 16, 2005, Respondent prepared an appraisal report for the property located at 205 Raven Road #A2 in Ketchum, Idaho ("Subject Property #5").

11. Respondent's work file and report for Subject Property #5 fails to meet the following requirements of applicable USPAP Standards (2005):

a. Ethics Provision, Recordkeeping: The work file does not contain sufficient information to support the findings and conclusions, no indication is made as to the verification of data and sources of the verification, sales comparison approach data is incomplete, the work file did not contain any analysis to support the adjustment amounts in the sales comparison approach, and the work file contained contradictory information as to the square footage of the improvement.

b. Standard 1-2(f): Respondent did not identify the scope of work. In addition, Respondent stated "The Cost and Income Approaches were not used because of lenders choice of forms." Respondent allowed the lender to set the scope of work without discussing whether the resulting report would be misleading.

c. Standards 1-4(a) and (b): The lack of a defined scope of work precludes a determination of the adequacy of the collection, verification and analysis of the data.

d. Standards 2-1(a) and (b): The data utilized in the appraisal is incomplete, inaccurate and errors have occurred throughout the report. The report is

misleading and not credible in that it appears to develop a sales comparison approach using closed sales, but the actual sale prices of those closed sales are not used in the analysis.

e. Reconciliation and Final Estimate of Value: The report fails to reconcile (1) the contract sales price of a 3-year-old, unsold, unoccupied property that included furnishings in the sale price (of which an estimate of value is unsupported) to (2) a final value estimate that is higher than the contract price, including the estimated furnishings value. The data in the report is ignored and not discussed in the reconciliation section.

f. Evaluation Summary: A sales comparison approach is not properly developed.

12. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of real estate appraising, specifically Idaho Code § 54-4107(1)(e) and IDAPA 24.18.01.700. Violations of this law and rule would further constitute grounds for disciplinary action against Respondent's license to practice real estate appraising in the State of Idaho.

13. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

B.

I, Shane J. Black, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in Section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice real estate appraising in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights

accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this Stipulation and Consent Order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. License No. CRA-1077 issued to Respondent Shane J. Black is hereby suspended for a period of nine (9) months, with the entire 9-month suspension period WITHHELD provided Respondent complies with all terms of this Stipulation and Consent Order.

2. Respondent shall pay to the Board an administrative fine in the amount of Three Thousand and No/100 Dollars (\$3,750.00) within sixty (60) days of the entry of the Board's Order.

3. Respondent shall pay investigative costs and attorney fees in the amount of Two Thousand Eight Hundred Thirty-Seven and 50/100 Dollars (\$2,837.50) within ninety (90) days of the entry of the Board's Order.

4. Respondent shall take the following courses from Board-approved providers within nine (9) months from the date of entry of the Board's Order:

- a. A 15-hour course in Sales Comp Approach;
- b. A 15-hour course in Report Writing; and
- c. A 15-unit National USPAP course.

Respondent shall take and pass any examinations given at the conclusion of the courses. Respondent shall submit proof of attendance and proof that he passed any given examinations within 30 days of attendance. If no examinations are given at the

conclusion of the courses, Respondent shall submit a letter from the course instructors stating that no examinations were given. Said continuing education shall be in addition to any continuing education Respondent is required to obtain to maintain his license.

5. Respondent's License No. CRA-1077 shall be placed on probation for a period of eighteen (18) months from the date of entry of the Board's Order. The conditions of probation are as follows:

a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraising in the State of Idaho.

b. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

c. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

d. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

e. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

6. Respondent shall not be eligible to act as a supervising appraiser for a trainee appraiser for a period of four (4) years from the date of entry of the Board's Order.

7. At the conclusion of the 18-month probationary period, Respondent may request from the Board reinstatement of License No. CRA-1077 without restriction. Any request for reinstatement must be accompanied by written proof of compliance with the

terms of this Stipulation and Consent Order. The Board retains discretion to grant reinstatement of Respondent's license or to deny reinstatement and continue the period of probation.

8. All costs associated with compliance with the terms of this Stipulation and Consent Order are the sole responsibility of Respondent.

9. The violation of any of the terms of this Stipulation and Consent Order by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation and Consent Order.

D.

1. It is hereby agreed between the parties that this Stipulation and Consent Order shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this settlement agreement, and if rejected by the Board, an administrative Complaint will be filed. By signing this document, Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the Complaint based on the fact that the Board has considered and rejected this settlement agreement. Pursuant to Idaho Code § 67-5252, Respondent retains the right to otherwise challenge the impartiality of any Board member to hear the allegations in the Complaint based upon bias, prejudice, interest, substantial prior involvement in the case or any other reason provided by law or for any cause for which a judge is or may be disqualified.

3. If the Board does not accept this Stipulation and Consent Order then, except for Respondent's waiver set forth in Paragraph D(2), above, it shall be regarded as null and void. Admissions by Respondent in the settlement agreement will not be regarded as

evidence against Respondent at the subsequent disciplinary hearing.

4. With the exception of Paragraph D(2), above, which becomes effective upon Respondent signing this document, this Stipulation and Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether or not Respondent has defaulted under this agreement. The Chief shall also serve notice of the default hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of default hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations of default will be deemed admitted.

b. At the default hearing, the Board and Respondent may submit affidavits made on personal knowledge and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the default hearing, the Board will determine whether to impose


additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

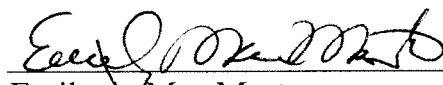
DATED this 27 day of March, 2007.



Shane J. Black
Respondent

I concur in this stipulation and order.

DATED this 2nd day of April, 2007.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
By 

Emily A. Mac Master
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 10th day of April, 2007. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By Paul J. Morgan
Paul J. Morgan, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of April, 2007, I caused to be served a true and correct copy of the foregoing by the following method to:

Shane J. Black
First Choice Appraisals
P.O. Box 5454
Twin Falls, ID 83303

☒ U.S. Mail
☐ Hand Delivery
☒ Certified Mail, Return Receipt Requested
☐ Overnight Mail
☐ Facsimile: _____
☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail
☐ Hand Delivery
☐ Certified Mail, Return Receipt Requested
☐ Overnight Mail
☐ Facsimile: _____
☒ Statehouse Mail

Tana Cory
Tana Cory, Chief
Bureau of Occupational Licenses